

ELECTIONS

HB 1673 — Second Primary Election

by Rep. Kottkamp and others (CS/SBs 1268 and 1956 by Ethics and Elections Committee and Senators Clary and Posey)

House Bill 1673 permanently eliminates the second primary election, and provides for nine weeks between the primary and general election.

The bill also makes numerous conforming changes to the Florida Election Code. For example, it repeals the 45-day overseas advance balloting system for the second primary and general elections. The nine-week period between the primary and general election allows sufficient time for overseas ballots to be printed, mailed, and returned. This should place the State of Florida in a position to petition the federal court for release from a consent agreement entered into in 1982, whereby votes cast in federal races on general election ballots received up to 10 days after the election must be included in the official vote tally.

If approved by the Governor, these provisions take effect January 1, 2006, provided the United States Department of Justice preclears the law pursuant to s. 5 of the Voting Rights Act.

Vote: Senate 25-14; House 76-37

HB 1589 — Florida Voter Registration System

by Rep. Brown (CS/CS/SB 2176 by Transportation and Economic Development Appropriations Committee; Governmental Oversight and Productivity Committee; and Senators Posey, Baker, and Lynn)

The bill sets out requirements for the new Florida Voter Registration System (“FVRS”) that must be operational by January 1, 2006, to comply with the Help America Vote Act of 2002 (“HAVA”). In addition, the bill:

- Requires the Department of State to provide a report of specific voter information to the Legislature within certain timeframes.
- Requires the reporting of election results by precinct.
- Clarifies that a mark must be placed by a voter registration applicant in the various check boxes on the voter registration application affirming the applicant’s eligibility in order for an application to be complete.

- Gives the Secretary of State authority to bring and maintain actions at law or by mandamus or injunction to enforce the performance of any duties of a county supervisor of elections or any election official performing duties with respect to chs. 97-102 and ch. 105, F.S., or to enforce compliance with department rules. The Secretary is required to confer or make a good faith effort to confer with the affected election official prior to initiating legal action.
- Change the qualifying date for persons seeking the office of Public Defender and State Attorney to coincide with the qualifying dates for judicial office.
- Expands the rulemaking authority of the Department of State to encompass the interpretation and implementation of any provision of the Election Code.
- Restricts candidates for statewide office from accepting contributions from national or state political parties, including subordinate committees, when the aggregate contribution exceeds \$250,000, no more than \$125,000 of which may be accepted prior to the 28-day period immediately preceding the date of the general elections.
- Revises the method of calculating a candidate's expenditures, if the candidate is requesting contributions from the Election Campaign Financing Trust Fund.
- For any candidate who requests contributions from the "Election Campaign Financing Trust Fund," the total expenditure limit is increased for a candidate for Governor and Lieutenant Governor from \$5 million to \$2 dollars for each Florida-registered voter, and for Cabinet officers from \$2 million to \$1 dollar for each Florida-registered voter.

If approved by the Governor, these provisions, unless otherwise provided for in the bill, take effect January 1, 2006.

Vote: Senate 33-5; House 77-38

HB 1591 — Public Records Exemption for Voter Registration Information

by Rep. Brown (CS/CS/SB 2178 by Governmental Oversight and Productivity Committee; Ethics and Elections Committee; and Senators Posey and Aronberg)

The bill is linked to HB 1589, which sets out requirements for the new Florida Voter Registration System ("FVRS") that must be operational by January 1, 2006, to comply with the Help America Vote Act of 2002 ("HAVA").

The bill expands and creates, and makes retroactive, a number of public-records exemptions:

- The bill makes a voter's social security number, driver's license number, and Florida identification number of a voter confidential and exempt from disclosure.

- The bill makes a voter's signature on any document (i.e., voter registration form, absentee ballot request, absentee ballot mailing envelope, provisional ballot voter's certificate) exempt from public records for the purpose of copying; voter's signatures may still be inspected.
- The bill exempts from disclosure address information in voter registration records for participants in the Address Confidentiality Program for Victims of Domestic Violence.

The bill also reenacts existing public records exemptions for declinations to register to vote, and information relating to the place where a person registered or updated a voter registration.

In addition, the bill deletes a current exemption that bans the copying of a voter's telephone number.

If approved by the Governor, these provisions take effect January 1, 2006.

Vote: Senate 39-0; House 111-0

HB 1567 — Elections Code Revision

by Rep. Reagan and others (CS/CS/SB 2086 by Judiciary Committee; Ethics and Elections Committee; and Senator Posey)

The bill primarily contains numerous conforming, technical, and clarifying changes to the Florida Election Code stemming from Florida's overhaul of its election administration system originating with passage of the Florida Election Reform Act of 2001.

The bill makes the following substantive changes:

- **Voter Registration**
Regulates voter registration activities by third-party voter registration organizations. It also removes the affirmation of citizenship that is contained in the oath a voter must sign on a voter registration application.
- **Provisional Ballots**
Permits a person casting a provisional ballot to present written evidence supporting his or her eligibility to vote to the supervisor no later than 5 p.m. on the third day following an election. It also permits any elector or poll watcher to challenge the right of any voter to vote 30 days or less before an election by filing a completed copy of the oath, and provides a penalty for a voter or poll watcher who files a frivolous challenge. However, an elector or poll watcher is not subject to liability for any action taken in good faith and in furtherance of any activity or duty permitted of such elector or poll watcher by law. Each instance where any elector or poll watcher files a frivolous challenge of any person's right to vote constitutes a separate offense.

- **Voter Solicitation**

Prohibits anyone from soliciting a voter at a polling place, early voting site, or within 100 feet of such locations, in an effort to provide the voter with assistance in casting their vote. The bill also prohibits the solicitation of voters inside the polling place or within 100 feet of the entrance to a polling place or early voting site, and removes all exceptions to the no-solicitation zone. The bill prohibits photography in the polling room or early voting area.

- **Replacement Candidates**

Allows the political party to nominate a replacement candidate if a vacancy occurs in nomination for any reason.

- **Absentee Ballots**

Requires a voter's request for an absentee ballot to be received by the supervisor no later than 5 p.m. on the sixth day prior to the election, and requires a supervisor to mail an absentee ballot to the voters requesting ballots no later than four days before the election. The bill also requires a supervisor to track when a ballot is delivered to a voter, or the voter's designee, or when the ballot was delivered to the post office.

- **Early Voting**

Requires supervisors of elections to designate early voting sites no later than 30 days before an election, and requires all early voting sites in a county to be open on the same days for the same amount of time. In addition, the bill permits poll watchers at early voting areas, and allows political committees registered to support or oppose a ballot issue to have one watcher in each polling room and early voting area.

- **Recounts**

Prohibits a manual recount from being ordered if the number of overvotes, undervotes, and provisional ballots is fewer than the number of votes needed to change the outcome of the election. The bill also removes the provision allowing a candidate who was defeated by between one-quarter and one-half percent of the votes from requesting a manual recount.

- **In-Kind Contributions**

Prohibits a political party from accepting an in-kind contribution that does not provide a direct benefit to the political party.

- **Powers of the Department of State**

Permits any employee of the Department of State, with expertise in the matter of concern to the Secretary, to have full access to all premises, records, equipment, and staff of a supervisor of elections, upon the written direction of the Secretary of State.

If approved by the Governor, these provisions, unless otherwise provided for in the bill, take effect January 1, 2006.

Vote: Senate 29-9; House 82-36

ETHICS

HB 1377 — Ethics Code Revision; Providing for Additional Restrictions on the Conduct of Elected Officials and Former and Current Government Employees; Prohibiting Lobbyists from Serving as Members of the Ethics Commission

by Rep. Ryan (CS/CS/SBs 1944 and 2008 by Judiciary Committee; Ethics and Elections Committee; and Senators Posey and Sebesta)

The bill clarifies and revises portions of the ethics code of the State of Florida, and provides for additional restrictions on the conduct of current and former government employees and elected officials. The bill also prohibits persons who are registered to lobby the legislative and executive branches of state government, or any local governmental entity, from serving as members of the Commission on Ethics, and further prohibits any member of the commission from lobbying the Legislature or executive branch of state government, or any local governmental entity, while serving as a member of the Ethics Commission.

Specifically, the bill extends the Little Hatch Act to prohibit all state employees, or employees of any political subdivision, from being involved in political campaigns while on duty.

The bill amends the prohibition against using inside information gained while in a public position to benefit oneself or another, clarifying that the prohibition applies to former employees and officers — except for information relating exclusively to governmental practices or procedures. The “revolving door” prohibition against representing a client before one’s former agency is revised to make the prohibition applicable to other-personal-services (OPS) employees and to exempt from prohibition’s applicability any agency employees whose positions were transferred from Career Service status to Select Exempt Service status under the “Service First” law. Additionally, the bill applies the two-year prohibition for former local elected officials representing another person or entity to prohibit representation before the government body *or* agency they served (which would include staff), rather than just the body of which they were a member.

The bill further revises post-employment restrictions to allow state employees whose jobs are privatized to work for a private entity under certain circumstances. A prohibition is added to keep state executive branch employees from leaving government and then representing a client before their former agency in connection with the same matter in which they participated while an agency employee.

If approved by the Governor, these provisions take effect October 1, 2005.

Vote: Senate 39-0; House 118-0

CONSTITUTIONAL AMENDMENTS

HJR 1177 — Term Limits

by Rep. Troutman and others (CS/SJR 1210 and 1362 by Ethics and Elections Committee and Senators Sebesta and Clary)

HJR 1177 increases term limits for state legislators from eight to twelve years. The 12-year term limit applies only to legislators whose *consecutive years* in office *begin* on November 7, 2006, or thereafter; office holders prior to and continuing through November 7, 2006, remain subject to the current eight-year term limit restriction in s. 4(b), Art. VI, State Constitution.

The bill also removes unconstitutional term-limit restrictions in the State Constitution applicable to federal office holders; the U.S. Supreme Court has ruled that state-imposed term limits on federal officers violates the qualifications clause of the U.S. Constitution. See, *U.S. Term Limits, Inc. v. Thornton*, 514 U.S. 779 (1995).

If approved by vote of the electors at the general election on November, 7, 2006, these provisions take effect at that time.

Vote: Senate 35-4; House 92-24

HJR 1723 — 60 Percent Passage Requirement

by Rep. Simmons and others (CS/SJR 6 by Judiciary Committee and Senators King, Smith, Fasano, Haridopolos, and Atwater)

House Joint Resolution 1723 amends s. 5, Art. XI, State Constitution.

The joint resolution increases the current affirmative passage requirement for proposed constitutional amendments or revisions, however proposed, (i.e., initiative, legislative joint resolution, Constitutional Revision Commission, Taxation and Budget Reform Commission, and constitutional convention) from a simple majority of those voting on the measure (50 percent plus one vote) to 60 percent of those voting on the measure.

If approved by the electors of the state of Florida in November 2006, the new threshold will take effect on January 2, 2007.

Vote: Senate 37-3; House 86-30